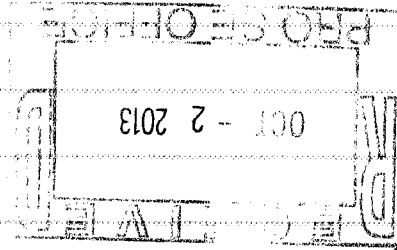


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DATE FILED: 10/2/13



OPPOSITION
MOTION

C/O
CHIEF JUDGE PRESKA
U.S. DISTRICT COURT
SOUTHERN DISTRICT OF -
NEW YORK, 500-PEARL ST
Room 230 NEW YORK N.Y. 10007

RE: BANKS V. CAPTAIN WALDEN
11 CIV-5738

SEPTEMBER 27-2013

1# PLAINTIFF BANKS HEREBY PRO-SE RECITE STATEMENTS BRIEFLY RENDERED BY CHIEF JUDGE PRESKA WITHIN HER MEMO ENDORSEMENT LETTER HEREIN ENTERED ON THE - 22 DAY OF MARCH 2013, SETTING FORTH A BRIEFING SCHEDULE FOR DEFENDANT'S MOTION TO DISMISS.

2# IT APPEARS HOWEVER THAT NEITHER PARTY WAS SERVED WITH THAT ORDER ACCORDINGLY (TO ENABLE THE DEFENDANT - TO FILE HIS MOTION TO DISMISS), THE COURT ENTERS THE FOLLOWING REVISED BRIEFING SCHEDULE:.

3# DEFENDANT'S MOTION TO DISMISS SHALL BE DUE BY .
SEPTEMBER 16TH 2013

4# PLAINTIFF OPPOSITION SHALL BE DUE BY OCTOBER 15TH 2013.

5# DEFENDANT'S REPLY IF ANY SHALL BE DUE BY
NOVEMBER 1ST 2013.

6[#]. PLAINTIFF BANKS CALLS THE COURT ATTENTION TO THE DEFENDANT -
 - CAPTAIN WALDEN DEFENSE COUNSEL MICHAEL A. CARDOZO
 PRELIMINARY STATEMENT'S ENTERED ON THE 16TH DAY OF
 SEPTEMBER 2013 RELATING TO DISMISS OF PLAINTIFF BANKS
 - COMPLAINT PURSUANT TO FEDERAL RULE OF CIVIL PROCEDURE
 12(B)(6) FOR FAILURE TO STATE A CLAIM UPON WHICH RELIEF CAN -
 - BE GRANTED IN PLAINTIFF BANKS COMPLAINT THAT WAS
 ACKNOWLEDGED BY THE DEFENSE COUNSEL MICHAEL A. CARDOZO
 SINCE THE 5TH DAY OF AUGUST 2011 AS HE CONFIRMED WITHIN
 HIS PRELIMINARY STATEMENTS.

7[#]. PLAINTIFF BANKS CONTENTS THAT THE DEFENSE COUNSEL -
 - MICHAEL A. CARDOZO FAILED TO RESPOND TO PLAINTIFF BANKS
 COMPLAINT WITHIN THE 21 DAYS AS PERSCRIBE BY THE LAW
 OF THE FEDERAL RULE OF CIVIL PROCEDURE 12A(2) OR (3), AS WELL -
 - ALSO HE FAILED TO REQUEST FOR AN EXTENTION FOR DELAYING
 HIS RESPONSE IN ANSWERING TO PLAINTIFF BANKS COMPLAINT
 AFTER THE AFOREMENTIONED ABOVE TIME EXPIRATION DATE, OF THE -
 - COMPLAINT.

8[#]. FOLLOWING THE VIOLATION HEREIN IS CLEAR AGAINST THE
 DEFENSE COUNSEL MICHAEL A. CARDOZO FILING MOTION TO
 DISMISS PLAINTIFF BANKS COMPLAINT TWO (2) YEARS LATER
 VIOLATES THE LAW OF THE FEDERAL RULE OF CIVIL PROCEDURE
 12A(2) OR (3) COMPLETELY. DESPITE HAVING CHIEF SUDGE PRESKA
 REVISED AN AFOREMENTIONED ORDER DATE FOR THE DEFENDANT
 TO FILE FOR THEIR DISMISSAL.

9# THEREFORE THE DEFENDANT CAPTAIN WALDEN -
- DEFENSE COUNSEL MICHAEL A. CARDOZO REPLY
MOTION ENTERED ON THE 16TH DAY OF SEPTEMBER
2013, REGARDING TO DISMISS PLAINTIFF BANKS
COMPLAINI MUST BE DENIED FOR HIS INITIAL
DEFAULT TO ANSWER THE COMPLAINT WITHIN THE
21 DAYS AS PERSCRIBE BY THE LAW OF THE FEDERAL -
RULE OF CIVIL PROCEDURE 12A (2) OR (3), AND THERE OF
GRANTING PLAINTIFF BANKS RELIEF AS HE REQUEST
RESPECTFULLY HEREIN, AS THE COURT MAY SEEM
JUST AND PROPER.

SINCERLY

CC: Deshaun Banks #12A0406

AFFIDAVIT OF SERVICE

STATE OF NEW YORK)
COUNTY OF CHEMUNG) ss:

I, DESHAWN BANKS, being duly sworn, deposes and says, that I am the
Petitioner herein, and that on the date of notarization indicated below, I have placed in a sealed, post-paid,
wrapper a true and exact copy of the enclosed papers, Identified as: Order to Show Cause, Affidavit in
Support of Order to Show Cause, ~~OPPOSITION MOTION~~ Affidavit in Support of [REDACTED] Petition,
Verification, Affidavit in Support of Petition, and Affidavit of Service, by placing same in U.S. Mailbox
in Southport Correctional Facility for delivery to the United States Postal Service, and that such parcels
were addressed to the parties indicated below:

Respectfully Submitted,

Deshaun Banks
_____, Petitioner, Pro-Se
Din. # 12A0406
Southport Correctional Facility
236 Bob Masia Dr., P.O. Box 2000
Pine City, N.Y. 14871-2000

CC:

c/o
MICHAEL A. CARDOZO

CC:

c/o
CHIEF JUDGE PRESKA
U.S. DISTRICT COURT
SOUTHER DISTRICT OF -
- NEW YORK U.S. COURT HOUSE

THE CITY OF NEW YORK
LAW DEPARTMENT
100 CHURCH STREET
NEW YORK, NEW YORK 10007

500-PEARL STREET
Room 230 NEW YORK
NEW YORK 10007

Sworn and subscribed to before me

on this 27 day of Sept, 2013

[Signature]
Notary Public

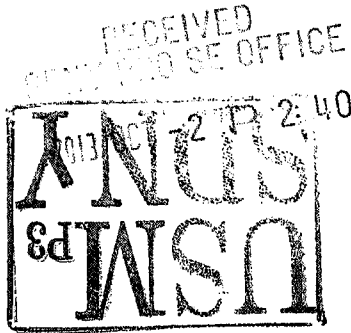
PATRICIA A. KLATT
Notary Public, State of New York
Chemung County No. 01KL6001416
Commission Expires Jan. 12, 2014

SOUTHPORT CORRECTIONAL FACILITY

P.O. BOX 2000

PINE CITY, NEW YORK 14871-2000

NAME: DESHAWN BANKS DIN: 12A0406

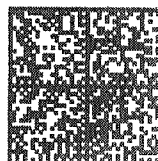


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Correctional Facility



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HONORABLE: CHIEF PRESKA

UNITED STATES DISTRICT COURT

SOUTHER DISTRICT OF NEW YORK U.S. COURT

-HOUSE 500 PEARL ST Room 230

NEW YORK, NEW YORK 10007